

WATERTOWN POLICE DEPARTMENT GENERAL ORDER



**JOANNA W. VITEK
CHIEF OF POLICE**

Effective Date: January 12, 2009	Rescinds: Amends: D-130, August 1, 2006	Number: D-130
Subject: Informants		Re-evaluation Date: January 2012
Distribution: ALL PERSONNEL	Related CALEA Standards:	

This order consists of the following numbered sections:

1. Purpose
2. Policy
3. Definitions
4. Procedures
5. Restrictions on Specific Classes of Individuals
6. Informant Files
7. Contact Agents
8. Documentation of Contacts
9. Instructions to Informants
10. Disclosure of Informant's Identity
11. Law Violations by an Informant
12. Division Integrity
13. De-Activating an Informant
14. Procedure

1. PURPOSE

Informants will be utilized to achieve full potential for the benefit of the community and the criminal justice system. This policy is to provide guidelines for the control and use of confidential informants.

2. POLICY

A. It is the policy of the Watertown Police Department to standardize the method under which informants are utilized within the department.

3. DEFINITIONS

- A. INFORMANTS ó Refers to any individual who agrees to procure information for the department or who receives some benefit in exchange for their information.
- B. PARTICIPATING INFORMANT ó Refers to an informant who actively participates and assists in the investigation.
- C. NON-PARTICIPATING INFORMANT ó Refers to an informant whose activity is limited only to supplying the department with information.
- D. CONTROL OFFICER ó The detective that is utilizing the informant.

4. PROCEDURES

- A. Establishing an informant.
 1. When an individual is to be used as a participating informant, the following must be acquired prior to any involvement by the individual.
 - a. Photograph of the individual.
 - b. Fingerprints of the individual.
 - c. Personal history sheet and criminal/intelligence record check.
 - d. Confidential Informant agreement form.
 - B. In preparing the documents, the control officer should make every effort to determine the individual's motivation to become a participating informant and reflect these in the comment section of the personal history sheet. When completed, the officer shall forward all the required data and forms to the CID Sergeant and CID Captain for final approval.
 - C. When an individual is to be used as a non-participating informant, a personal history sheet and record check must be completed. The control officer should make every effort to determine the individual's motivation to give

information and reflect this in the comment section of the personal history sheet. All completed forms will be forwarded to the CID Sergeant and CID Captain for final approval.

D. Informant Numbers.

The primary control officer will establish the informant number, utilizing the following system:

- a. The current calendar year.
- b. Officer's call number.
- c. The consecutive number showing how many informants are supervised by the officer for that year.
Example: 09-212-1 (09 is the 2009 year, 212 is the officer, and 1 is the number for the first informant for officer 212 for the calendar year 2009).

5. **RESTRICTIONS ON SPECIFIC CLASSES OF INDIVIDUALS**

A. The use of the following types of individuals shall be utilized only after the safeguards appropriate to each have been met.

1. Individuals under the age of 18 ó An officer requesting to utilize a minor or emancipated minor as an informant must obtain approval from the CID Captain or Assistant Chief of Police and a written consent of either or both parents or guardians. The consent shall be forwarded to the CID Sergeant and CID Captain for final approval. The use of such individuals shall be infrequent and under extraordinary circumstances.
2. Defendants in pending state or federal prosecutions ó The use of such an individual shall be acknowledged verbally or in writing by the prosecutor in each jurisdiction the individual is pending charges.
3. Persons on probation, parole or conditional release ó To utilize an individual on probation, parole or conditional release as a participating or non-participating informant, the following conditions shall be satisfied:
 - a. The officer shall note on the personal history sheet the individual's status and name of the supervising parole or probation officer and on a separate sheet specify reasons why the individual should be considered for use as a participating informant or non-participating informants; state what information this person has and where it may lead. The date and time the probation, parole officer, or court of jurisdiction granted permission for the subject to participate as an informant shall be noted on the personal history sheet.
 - b. The officer shall obtain written approval for the activity from the CID Sergeant and the CID Captain for final approval before using a participating informant.
 - c. All requests for waiver of any requirements of this policy must be approved by the CID Captain or the Assistant Chief of Police.

6. **INFORMANT FILES**

A. The confidentiality of each informant's identity shall be maintained to the best of the department's ability. In addition, the reliability of each informant should be evaluated periodically. To this end, three (3) separate sets of files relating to informants shall be kept by the CID as follows

1. Informant Files ó Purpose of the informant files are to provide a record identifying the informant and summarizing his activities, and shall include:
 - a. History and results of their activity on behalf of the CID.
 - b. Reward, payment or other benefits provided by the CID to the informant.
 - c. Any written and signed statements by the informant, to include the personal history sheet, and informant agreement form, fingerprint cards and photographs.

B. Access:

1. The informant files shall be under the complete control of the CID Captain.
2. Only the Chief of Police, Assistant Chief of Police, CID Captain, CID Sergeant, Control Officer and designated civilian staff shall have access to the files
3. Any access shall be on a need to know basis.

C. Cross Reference File:

1. The cross-reference file shall consist of a computer database enabling the CID to identify an informant from their number and derive the number from their names.
2. Access will be limited to the Chief of Police, Assistant Chief of Police, CID Captain, CID Sergeant, Control Officer and designated civilian staff. Anyone else must receive approval from the Chief of Police, Assistant Chief of Police or CID Captain.
3. No copies shall be made of any material in the cross-reference file.

7. **CONTROL OFFICER**

A. The duties of the primary control officer shall be:

1. To make regular contact with the informant.
2. To take necessary steps to develop and control the informant. (Develop the informant refers to the process of instilling in the informant a desire to be as helpful as possible).
3. To properly instruct the informant in accordance with established policies of the WPD.

4. To inform the alternate control officer as to any developments regarding the informant and present the alternate control officer with copies of any reports of any meetings they are unable to attend.
 5. At least two officers should be present during any contact with the CI unless otherwise authorized by the CID Captain. This does not pertain to phone contact.
- B. Alternate Control Officer
1. The alternate control officer shall be prepared to take on the responsibilities of the primary control officer whenever the primary control officer is unavailable. To this end, the alternate control officer shall:
 - a. Attend as many meetings between the primary control officer and informant as possible.
 - b. Become informed as to all developments relating to the informant.
- C. Developing the Informant.
1. The control officer shall attempt to gain the confidence and respect of the informant. To this end, they should:
 - a. Always keep promises to the informant.
 - c. Demonstrate gratitude for information received.
 - d. Encourage the informant's further activity.
 - e. Always attend meetings on time.
- D. As an item of top priority, take such steps as are necessary to protect the confidentiality of the informant's identity, including.
1. Varying the times and places of meetings.
 2. Avoiding public contact with the informant.
 3. Avoiding the necessity of their testimony whenever possible. (NOTE: If the informant is present during a criminal act, the defense may well be able to require their testimony at trial.)
- E. Control officer shall always maintain control over relationships with active informants. To this end, officers should:
1. Reveal information to the informant only when absolutely necessary.
 2. Attempt to corroborate all information received from the informer.
 3. Refuse to make unreasonable payments.
 4. Shall not have business or personal relationships with active informants.
8. **DOCUMENTATION OF CONTACTS**
- A. Case related meetings or conversations should be documented in one of the following ways: Investigation Report; Information Report, or LEIN Report.
- B. The officer should always refer to the informant by number in investigative reports, general information forms, and intelligence memos and not by name or gender.
All reports shall be placed in the appropriate files.
Informant statements are to be used when there is not a tape recording made of the transaction.
1. An informant statement is an informant's written or tape recorded report of information on an event in which the informant participates.
 2. An informant statement shall be prepared whenever an informant furnishes information likely to require testimony in court or actively participates in an investigation. An informant actively participates when they act under the supervision of any officer and for the purpose of obtaining direct observation of criminal activity or securing evidence of criminal activity.
- E. The statement shall be prepared as soon after the event as possible.
- F. Preparing the statement:
1. The statement shall be written or tape recorded by the informant, taking into account the following: who, what, when, where, how and why.
 2. If the event involves the purchase of evidence, the statement shall relate, if true, that the informant was searched before and after the purchase.
 3. The statement should include a physical description of the subject of the report.
 4. Where applicable, a concluding paragraph shall indicate:
 - a. That the informant has read and signed the statement.
 - b. The statement is true and correct to the best of the informant's knowledge.
 5. Any changes in the statement shall be initialed by the informant.
 6. The informant shall sign the original.
 7. The writing of the statement shall, when possible, be observed by an officer who shall sign as a witness when the statement is completed.
- G. Payments
1. Payments to informants shall be consistent with guidelines outlined in GO D-145.
 2. The control officer shall ensure that the recommended payment is reasonable and consistent with the department's objectives. In judging the reasonableness of a payment the agent shall consider:
 - a. Whether the information can be acquired or the investigation promoted to the same extent through other

- methods requiring a similar expenditure of department resources.
 - b. The existence of other alternative or supplementary forms of compensation.
 - c. The level of activity being investigated.
 - d. Whether the information will lead to an arrest or seizure of contraband.
 - H. Payments shall be made after the receipt of the information, except upon approval of the officer's CID Captain. Justification for a prior expenditure shall be documented for their approval.
 - I. An officer shall always limit promises to an informant to those which are certain to be approved.
 - J. The department shall never pay an informant to secure convictions against specific individuals for crimes that, at the time of the arrangements, have not been committed.
 - K. All payments shall be made in accordance with the following procedures:
 - 1. Approved payment shall be provided to the control officer for payment of the informant.
 - 2. A record of all payments shall be noted on the appropriate receipts and ledgers.
 - 3. Upon receiving the payment, the informant shall sign a receipt. If a receipt cannot be obtained, a written explanation shall be submitted for approval by the CID Captain.
 - 4. Either the receipt or explanation shall be filed in the informant file.
 - 5. All payments shall be accounted for in a written explanation and placed in the informant file. The explanation shall include:
 - a. Reasons for the payment (information, expenses, services, etc.).
 - b. The date covered by the payment; or
 - c. Any reference to an appropriate investigative file number.
 - L. The Watertown Criminal Investigative Division shall keep a running record of all payments made to the informant.
- 9. INSTRUCTIONS TO INFORMANTS**
- A. Before utilizing an informant, the control officer(s) should instruct the informant of the following:
 - 1. The confidentiality of the informant's identity will be maintained to comply with legal and ethical standards. Department may be required to disclose the identity of the informer.
 - 2. Informing for the department does not imply immunity from prosecution for future crimes. Any crimes committed by the informant will be referred to the prosecutor for disposition and review.
 - 3. An informant is not entitled to entrap a suspect. Entrapment occurs where the informant encourages, persuades, or otherwise motivates a person to engage in criminal activity.
 - 4. CI's are not law enforcement officers. They have no arrest powers, are not permitted to conduct searches and seizures, and may not carry a weapon.
- 10. DISCLOSURE OF INFORMANT'S IDENTITY**
- A. The policy of the department is to maintain the confidentiality of an informant's identity as long as legally or ethically proper.
 - B. An officer shall never disclose the identity of an informant unless in the normal course of business without the express permission of the Chief of Police, Assistant Chief of Police or the CID Captain.
 - C. An officer shall never promise an informant that their identity will never be revealed. An officer may promise that the informant's identity will be kept confidential until such time as the court requires its disclosure.
 - D. Court Procedure: When presented with the question of disclosure in preparation for or at a trial, the officer shall proceed as follows:
 - 1. If a demand for disclosure is anticipated before any court proceedings, the officer shall confer with the prosecutor as to possible alternatives to disclosure.
 - 2. If the question of disclosure arises at trial, the officer shall respond that the identity of the informant is privileged information and that the officer is claiming the privilege.
 - 3. If the court rejects the claim of privilege, the officer shall request time to confer with the prosecutor as to possible alternatives.
 - 4. If the prosecutor is unable to suggest a viable alternative, the officer shall ask the prosecutor to request a recess to enable the officer to confer with the Chief of Police, Assistant Chief of Police or CID Captain.
 - 5. If the prosecutor does not aid the officer, the officer may ask the court for a recess.
 - E. Decision to Disclose ó The Chief of Police, Assistant Chief of Police and CID Captain, in deciding whether to disclose the informer's identity, shall balance the danger to society resulting from the dismissal of the case against:
 - 1. The effect disclosure might have on the willingness of other individuals to assist the department as informants.
 - 2. The danger to the informant.
 - 3. The threat posed to other investigations in which the informant is involved.
- 11. LAW VIOLATIONS BY AN INFORMANT**
- A. The department shall treat evidence of criminal violations by its informants no differently than it would treat evidence of violations by other individuals. The department and its officers shall never attempt to conceal violations of the law.

- B. Any evidence of violations shall be reported immediately to the CID Captain. The CID Captain shall decide whether to make continued use of the informant. In deciding whether to continue with the informant, the CID Captain shall consider:
 - 1. The seriousness of the crime in terms of danger to life and property.
 - 2. The degree of certainty of the information regarding the criminal activities.
 - 3. The significance of the information that the informant is providing or will provide

11. DIVISION INTEGRITY

- A. If an informant furnishes corroborative information reflecting adversely on the integrity of an employee of the Watertown Police Department, an officer, or any other law enforcement agency, such information shall be immediately referred to the Chief of Police, Assistant Chief of Police, and the CID Captain.

13. DE-ACTIVATING AN INFORMANT

- A. The primary control officer may deactivate an informant when it has been determined that such informant is of no further value to the department or its goals and objectives, the informant's identity has been revealed as a result of a court trial, or the informant's motivation to assist is no longer apparent.
- B. The agent should submit a brief statement to be placed in the informant's file as to why the informant was deactivated.

14. PROCEDURE

- A. Immunity may not be granted by an officer. The informant must understand that they cannot violate any of the laws of this state.
- B. A receipt must be obtained for all money or property given to a paid informant.
- C. The criminal history of any informant must be known by the officer and the department.
- D. Participating informants used for the purpose of buying illegal drugs or other contraband must be controlled as follows:
 - 1. Thoroughly debrief the informant, and document the interview.
 - 2. Make some independent effort to corroborate as much of the informant's information as possible and document the corroboration.
 - 3. Have the informant telephone the suspect(s) while you monitor and record the telephone call.
 - 4. Thoroughly search the informant to determine that they are not carrying any contraband in with them. A search should also be made of the informant's vehicle if it is used. These actions and their results should be documented in the case report.
- E. Have the informant remove all personal funds and turn them over to you, then provide the informant with official funds that the serial numbers have been recorded from, with a copy of the recorded serial numbers being filed with the case, along with any receipts that may be required.
- F. Brief the informant as to what it is you expect and what they can expect if they get into trouble while trying to make a buy. The informant should be provided if available, with a transmitter or a tape recorder or any other acceptable recording device. To record the transaction in its entirety, such devices will be used unless it compromises the safety of the undercover operative or the investigation.
- G. If manpower is available, set up surveillance on the informant to cover them during the undercover activity. Document all times of entry and departure and all vehicles parked in the area of those coming and going from the area.
- H. The investigating officer on the surveillance team should follow the informant upon departure and meet with them at a predetermined point and receive the evidence from them and remove the transmitter or recording device.
- I. Thoroughly search the informant to insure that they are not carrying any contraband. A search should also be made of the informant's vehicle if it was used. These actions and the results should be documented in the case report.
- J. Take a written or tape recorded statement from the informant, giving emphasis to details, descriptions of persons they met with (even the names of the subjects if know).
- K. Advise the informant how and when to contact you or anyone else you may delegate.
- L. All participating informants who purchase drugs or other contraband must understand, complete, initial and sign the following undercover agreement form prior to being used as an informant.

JOANNA W. VITEK
Chief of Police
Watertown Police Department
Watertown, South Dakota

WATERTOWN POLICE DEPARTMENT
119 SOUTH MAPLE STREET
WATERTOWN, SOUTH DAKOTA 57201-3653

CI INACTIVATION REPORT

CI # _____ **NAME OF CI:** _____

Date: _____

Reason for Inactivation:

Control Officer: _____



**WATERTOWN POLICE DEPARTMENT
 119 SOUTH MAPLE STREET
 WATERTOWN, SOUTH DAKOTA 57201-3653
 Phone (605) 882-6210 Fax (605)882-6216**

NAME:

DOB:

ADDRESS:

TELEPHONE: HOME

WORK

1. Do you understand that you are not privileged to break any laws during the course of your association with this agency? _____
2. Do you understand that you are not an employee of the above named agency and you are not to use the agency as a reference? _____
3. Do you understand that you are not to handle any contraband or illegal drugs, at any time, unless specifically authorized to do so by the agency named above? _____
4. Do you understand that you are not to disclose your association with this agency to anyone except in answer to subpoena in a court of law? _____
5. Do you understand that you are not to release any funds entrusted to you until you have first received the drugs or contraband for which you are negotiating? _____
6. Do you understand that you are not to purchase drug or contraband from any person(s) that you cannot identify? _____
7. Do you understand that you are not authorized to purchase drugs or contraband from the same person more than twice unless you are authorized to do so? _____
8. Do you understand that you are not to carry any document or equipment that represents the law enforcement field? _____
9. Do you understand that you are not to make any arrests of a physical nature during your association with this agency? _____
10. Do you understand the law as it relates to entrapment? _____
11. Do you understand that you are not a law enforcement officer? _____

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12. Do you understand that you are not to use your association with the above named agency to solve your personal problems? _____
13. Do you understand that you are not to carry any weapon contrary to state law? _____
14. Do you understand that this agency will furnish funds only to cover the purchase price of any controlled substance or contraband purchased by you subsequent to this agreement, unless specific other provisions have been made? _____
15. Do you understand that you are to report to an agent assigned to you on a continuous basis while actively engaged in assisting law enforcement? _____
16. Do you understand that as a result of your cooperation with law enforcement that you may be asked to take a polygraph test to verify any and all transactions you were involved in while assisting law enforcement? _____
17. Do you understand that it may become necessary to appear in court and testify as to what transpired during a transaction that you were directly or indirectly involved in? _____
18. Do you understand that after all arrests are made, if you decide to relocate, you will have to keep the above named agency informed of your address and phone number so that you may be contacted should you be needed for a court appearance? _____
19. Do you understand that as a result of your cooperation, you may be asked to try to introduce an undercover police officer to anyone that you have been able to purchase controlled substances or contraband from? _____
20. Do you have any questions concerning rules and regulations which you will be required to adhere to? _____
21. Do you agree, as a part of your cooperation with law enforcement, to carry electronic transmitting or recording devices? _____

SIGNATURE

SIGNATURE OF COUNSEL, IF PERTINENT

WITNESS ó Control Officer DATE

Give examples of the signatures of any assumed names you plan on using:

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